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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,909	03/31/2004	Pak-Lung Seto	32320.P18316	9282

7590 11/14/2006  
Grossman, Tucker, Perreault & Pfleger, PLLC  
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P.O. Box 52050  
Minneapolis, MN 55402

EXAMINER

SHIN, CHRISTOPHER B

ART UNIT PAPER NUMBER

2181

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
10/815,909	SETO ET AL.	
Examiner	Art Unit	
Christopher B. Shin	2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                      |                                                                                        |
|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                          | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-6, 8-11, 13-15 & 17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sekihata et al. (US2002/0159480 A1).

In figures 1-2 & the respective descriptive sections (e.g., [0035]-[0037]) teaches all of the equivalent functions of the claimed limitations; therefore, the claimed invention is clearly anticipated by the teachings of Sekihata reference. The applicant should carefully consider the entire teachings of the Sekihata et al, since the examiner relies on the entire teachings of Sekihata et al.

3. Claims 1-2, 4-6, 8-11, 13-15 & 17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lorenz et al. (5,473,604).

In figure 3 the respective descriptive sections (e.g., columns 5-6) teaches all of the equivalent functions of the claimed limitations; therefore, the claimed invention is clearly anticipated by the teachings of Lorenz reference. The applicant should carefully consider the entire teachings of the Lorenz et al, since the examiner relies on the entire teachings of Lorenz et al.

4. Claims 1-2, 4-6, 8-11, 13-15 & 17-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lorenz et al. (5,691,985).

In figure 3-6 the respective descriptive sections (e.g., columns 15-16) teaches all of the equivalent functions of the claimed limitations; therefore, the claimed invention is clearly anticipated by the teachings of Lorenz reference. The applicant should carefully consider the entire teachings of the Lorenz et al, since the examiner relies on the entire teachings of Lorenz et al.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 7, 12, 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekihata et al. (US2002/0159480 A1).

The above teachings of the parent claims 1-2, 4-6, 8-11, 13-15 & 17-19 have been discussed detailed and are similarly applied in this rejection.

The claims 3, 7, 12, 16, 20 further adds the limitations regarding the claimed buffers being about 1 kilobyte, which are not expressly discussed by the Sekihata reference. However such difference of having a specific buffered size is one of the design choice matters to the one having ordinary skill in the art. This is well known and commonly practiced in the art at the time of the invention; one skilled

in the art can easily choose the buffer size between cost verses speed/bandwidth of the design. Therefore, it would have been obvious at the time the invention was made to one having ordinary skill in the art to use a specific buffer size in the art of Sekihata to come up with the invention for the reasons stated above.

7. Claims 3, 7, 12, 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorenz et al. (5,473,604).

The above teachings of the parent claims 1-2, 4-6, 8-11, 13-15 & 17-19 have been discussed detailed and are similarly applied in this rejection.

The claims 3, 7, 12, 16, 20 further adds the limitations regarding the claimed buffers being about 1 kilobyte, which are not expressly discussed by the Lorenz reference. However such difference of having a specific buffered size is one of the design choice matters to the one having ordinary skill in the art. This is well known and commonly practiced in the art at the time of the invention; one skilled in the art can easily choose the buffer size between cost verses speed/bandwidth of the design. Therefore, it would have been obvious at the time the invention was made to one having ordinary skill in the art to use a specific buffer size in the art of Lorenz to come up with the invention for the reasons stated above.

8. Claims 3, 7, 12, 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorenz et al. (5,691,985).

The above teachings of the parent claims 1-2, 4-6, 8-11, 13-15 & 17-19 have been discussed detailed and are similarly applied in this rejection.

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The claims 3, 7, 12, 16, 20 further adds the limitations regarding the claimed buffers being about 1 kilobyte, which are not expressly discussed by the Lorenz reference.

However such difference of having a specific buffered size is one of the design choice matters to the one having ordinary skill in the art. This is well known and commonly practiced in the art at the time of the invention; one skilled in the art can easily choose the buffer size between cost verses speed/bandwidth of the design. Therefore, it would have been obvious at the time the invention was made to one having ordinary skill in the art to use a specific buffer size in the art of Lorenz to come up with the invention for the reasons stated above

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-20 provisionally rejected on the ground of nonstatutory double patenting over claims 1-21 of copending Application No. US 2005/0223141 A1). This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the claims 1-21 of the copending (141) application claims substantially/functionally equivalent limitations as the present claims.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B. Shin whose telephone number is 571-272-4159. The examiner can normally be reached on 6:30-5:00 M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz Fleming can be reached on 571-272-4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRISTOHPER SHIN  
PRIMARY EXAMINER  
OF 2181

November 8, 2006  
cbs

A handwritten signature in black ink, appearing to read 'Ch Shin', is written over the printed name of the examiner.